

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

---

BRYAN C,<sup>1</sup>

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner,  
Social Security Administration,

Defendant.

---

CIV. 20-5007-JLV

ORDER

Plaintiff Bryan C. filed a motion, supporting exhibit and a legal memorandum for attorney's fees pursuant to 28 U.S.C. § 2412, the Equal Access to Justice Act ("EAJA"). (Dockets 23-25 & 25-1). Defendant submitted a response indicating he did not oppose the motion. (Docket 26). Good cause appearing, it is

ORDERED that plaintiff's motion (Docket 23) is granted.

IT IS FURTHER ORDERED that plaintiff is awarded \$2,658.70 comprised of \$2,490 in attorney's fees and \$161.85 in expenses representing six and one-half percent (6.5%) state and local sales tax on the attorney's fees and \$6.85

---

<sup>1</sup>The Administrative Office of the Judiciary suggested the court be more mindful of protecting from public access the private information in Social Security opinions and orders. For that reason, the Western Division of the District of South Dakota will use the first name and last initial of every non-governmental person mentioned in the opinion. This includes the names of non-governmental parties appearing in case captions.

in additional expenses for postage, for total expenses of \$168.70 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

IT IS FURTHER ORDERED that plaintiff is entitled to \$400 for court filing costs and \$30.45 in copying costs to be paid from the Judgment Fund pursuant to 28 U.S.C. § 1920.

IT IS FURTHER ORDERED that this award is without prejudice to plaintiff's right to seek attorney's fees under § 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provision of the EAJA; however, this award shall constitute a complete release from and bar to any and all other claims plaintiff may have relating to the EAJA in connection with this action.

IT IS FURTHER ORDERED that under Astrue v. Ratliff, 560 U.S. 586, 595-98 (2010), EAJA fees awarded by the court belong to the plaintiff and are subject to offset under the Treasury Offset Program, 31 U.S.C. § 3716(c)(3)(B) (2006).

IT IS FURTHER ORDERED that the EAJA fees shall be paid to plaintiff Bryan C. but delivered to plaintiff's attorney Michael J. Simpson, 1600 Mountain View Road, Suite 110, Rapid City, SD 57702.

Dated April 12, 2021.

BY THE COURT:

/s/ Jeffrey L. Viken

JEFFREY L. VIKEN  
UNITED STATES DISTRICT JUDGE